

**THE NATIONAL COMPANY LAW TRIBUNAL  
MUMBAI BENCH-IV**

**I.A. 737 OF 2023**

Under Section 33 of Insolvency &  
Bankruptcy Code, 2016

Mr. Dinesh Kumar Aggarwal

Resolution Professional/

...Applicant

In the matter of

C.P.(IB) No. 806/MB/2021

Amit Punjabi

**Financial Creditor**

Vs.

GAMBS India Private Limited

**Corporate Debtor**

*Order delivered on: 21.03.2023*

*Coram:*

**Mr. Prabhat Kumar**  
Hon'ble Member (Technical)

**Mr. Kishore Vemulapalli**  
Hon'ble Member (Judicial)

*Appearances (via videoconferencing):*

For the Applicant/RP

: Mr. Manish Jha, Advocate

**ORDER**

***Per: Kishore Vemulapalli, Member (Judicial)***

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1. The above application I.A. No. 737/2023 is filed by Resolution Professional, Mr. Dinesh Kumar Aggarwal (hereinafter referred to as the “Applicant”) seeking liquidation of GAMBS India Private Limited (hereinafter referred to as the “Corporate Debtor”) under Section 33 (1) of the Insolvency and Code, 2016 (hereinafter called as “the Code”).
  2. The brief facts of the application are as follows:
    - a. The Applicant mentions that this Tribunal vide its order dated 07.02.2023 in Company Petition No. 806/IBC/MB/2021 admitted the petition under Section 7 of the Code, filed by ICICI Bank Limited (hereinafter referred to as the “Financial Creditor”) and Corporate Insolvency Resolution Process (hereinafter referred to as the “CIRP”) was initiated against the Corporate Debtor.
    - b. The Corporate Debtor has challenged the admission order before the Hon’ble NCLAT wherein the Hon’ble NCLAT stayed the constitution of CoC in lieu of Corporate Debtor was ready to make the payment. The Corporate Debtor failed to make the promises, therefore, vide order dated 31.01.2022, the Hon’ble NCLAT vide its order dated 25.04.2022 vacated the stay.

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- c. That pursuant to the publication of FORM-G dated 06.05.2022, the Resolution Professional received one Expression of Interest “EOI” from “M/s Kundan Care Products Limited”. The prospective Resolution Applicant also submitted Resolution Plan for the Corporate Debtor which envisaged payment of Rs.22.6489 Crore to all the creditors plus CIRP cost and provision of Rs.20 Crores kept for capital expenditure as and when required, the said prospective resolution plan was rejected by the CoC in its 4<sup>th</sup> CoC meeting held on 18.10.2022.
- d. In the 6<sup>th</sup> CoC meeting held on 18.11.2022, the CoC unanimously passed a resolution in favour of publication of fresh Form-G. Pursuant to publication of fresh Form-G on 19.11.2022, the Applicant received 12 enquiries out of which 5 Expression of Interest from interested parties are also received.
- e. Since the CIRP period of 270 is going to end on 29.12.2022, the CoC in its 7<sup>th</sup> CoC meeting on 14.12.2022 passed a resolution to seek an extension of 60 days. This Hon’ble Tribunal vide order dated 20.12.2022 granted extension upto 27<sup>th</sup> Feb 2023.
- f. Pursuant to the publication of Fresh FORM-G, the Applicant received two Resolution Plans namely M/s Shree Krishna Structures Private Limited and M/s Shanti G.D. Ispat and

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Power Private Limited, the same was put before the CoC on 17.01.2022 in 8<sup>th</sup> CoC meeting. The Secured Financial Creditor viz IDBI Bank Limited submits that both the Resolution Plans have proposed much lower value as compared to the intrinsic value of the Corporate Debtor and the said resolution plans was lower in value than the plan received in response to the first Form-G which was rejected in the 4<sup>th</sup> CoC meeting. Therefore, none of CoC members suggested in favour of the said plans during the meeting. The CoC with 98.11% voting unanimously expresses their decisions to reject both the modified resolution plans referred *supra*.

- g. The Corporate Debtor is not a going concern and is having only one asset i.e. a Commercial Building and the same can be sold in the liquidation process during liquidation.
- h. Since, the CIRP period of 330 days is going to end on 27.02.2023, the CoC members in its 11<sup>th</sup> CoC Meeting held on 14.02.2023 passed a Resolution for liquidation of the Corporate Debtor. The Resolution passed in the meeting is reproduced hereinunder: -

***“RESOLVE THAT, the CoC hereby approve the liquidation of the Corporate Debtor M/s GAMBS India Private Limited, due to non-receipt of viable resolution plans, and authorized***

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*the Resolution Professional Mr. Dinesh Kumar Aggarwal, to  
file an IA for liquidation with Hon'ble Tribunal.*

3. After hearing the submissions made by the Counsel appearing for the Applicant and upon perusing the material available on record, this bench is of the opinion that the Corporate Debtor is required to be liquidated in the manner as laid down in the IBC 2016.

**ORDER**

4. The above I.A. No. 737/2023 is allowed and the Corporate Debtor GAMBS India Private Limited is ordered to be liquidated as a going concern for the first attempt and if it fails, then sale by other methods should be tried.
- a. **Mr. Dinesh Kumar Aggarwal**, having Registration No. IBBI/IPA-002/IP-N00890/2019-2020/12843, having office at: Unit 207, 2<sup>nd</sup> Floor, Kshitij, Near Azar Nagar Metro Station, Veera Desai Road, Andheri West, Mumbai-53 is hereby appointed as the Liquidator as provided under Section 34(1) of the Code.
  - b. That the Liquidator for conduct of the liquidation proceedings would be entitled to the fees as provided in Regulation 4(2)(b) of the IBBI (Liquidation Process Regulations), 2016.
  - c. The Liquidator appointed in this case to initiate liquidation process as envisaged under Chapter-III of the Code by

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following the liquidation process given in the Insolvency & Bankruptcy Board of India (Liquidation Process) Regulations, 2016.

- d. The Liquidator appointed under section 34(1) of the Code. All powers of the board of directors, key managerial personnel and the partners of the Corporate Debtor, as the case may be, shall cease to have effect and shall be vested with the liquidator.
- e. That the Corporate Debtor to be liquidated in the manner as laid down in the Chapter by issuing Public Notice stating that the Corporate Debtor is in liquidation with a direction to the Liquidator to send this order to the ROC under which this Company has been registered.
- f. That the personnel of the Corporate Debtor are directed to extend all co-operation to the Liquidator as required by him in managing the liquidation process of the Corporate Debtor.
- g. That on having liquidation process initiated, subject to Section 52 of the Code, no suit or other legal proceeding shall be instituted by or against the Corporate Debtor save and except the liberty to the liquidator to institute suit or other legal proceeding on behalf of the Corporate Debtor with prior approval of this Adjudicating Authority.
- h. This liquidation order u/s 33(7) shall be deemed to be a notice of discharge to the officers, employees and workmen of the Corporate Debtor except to the extent of the business of the

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Corporate Debtor continued during the liquidation process by  
the Liquidator.

- i. The liquidator shall be at liberty to pursue pending the Interlocutory Application pertaining to avoidance transactions, if any.
- j. With the above directions, the I.A. No.737/2023 filed u/s33 (1) by the applicant is hereby allowed and disposed of.

Sd/-

**PRABHAT KUMAR**  
Member (Technical)  
/NP/

Sd/-

**KISHORE VEMULAPALLI**  
Member (Judicial)